

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA

Plaintiff,

VS.

TYRONE WEATHERALL

Defendant.

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NO. 3:11-CV-2430-D  
NO. 3:10-CR-040-D(04)

**ORDER**

After making an independent review of the pleadings, files, and records in this case, and the findings and recommendation of the magistrate judge, the court concludes that the findings and recommendation are correct. It is therefore ordered that the findings and recommendation of the magistrate judge are adopted.

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings and recommendation filed in this case in support of its finding that the defendant has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

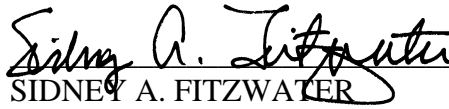
If defendant files a notice of appeal,

( ) defendant may proceed *in forma pauperis* on appeal.

(X) defendant must pay the \$455.00 appellate filing fee or submit a motion to proceed  
*in forma pauperis*.

**SO ORDERED.**

March 28, 2012.

  
SIDNEY A. FITZWATER  
CHIEF JUDGE